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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-505

13
14 **MICHAEL ROY WILLIAMSON**
15 **11323 Brockway Street**
16 **El Cajon, CA 92021**
Registered Nurse License No. 695569

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

17
18 Respondent.

19
20 **FINDINGS OF FACT**

21 1. On or about December 20, 2012, Complainant Louise R. Bailey, M.Ed., R.N., in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs, filed Accusation No. 2013-505 against Michael Roy Williamson (Respondent)
24 before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

25 2. On or about January 19, 2007, the Board of Registered Nursing (Board) issued
26 Registered Nurse License No. 695569 to Respondent. The Registered Nurse License was in full
27 force and effect at all times relevant to the charges brought in Accusation No. 2013-505 and will
28 expire on January 31, 2013, unless renewed.

1 3. On or about December 20, 2012, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 2013-505, Statement to Respondent, Notice of Defense,
3 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
4 and 11507.7) at Respondent's address of record which, pursuant to California Code of
5 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board.
6 Respondent's address of record was and is 11323 Brockway Street, El Cajon, CA 92021.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. Government Code section 11506 states, in pertinent part:

11 (c) The respondent shall be entitled to a hearing on the merits if the respondent
12 files a notice of defense, and the notice shall be deemed a specific denial of all parts
13 of the accusation not expressly admitted. Failure to file a notice of defense shall
14 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
15 may nevertheless grant a hearing.

16 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
17 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
18 2013-505 .

19 7. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the
21 hearing, the agency may take action based upon the respondent's express admissions
22 or upon other evidence and affidavits may be used as evidence without any notice to
23 respondent.

24 8. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
27 taking official notice of all the investigatory reports, exhibits and statements contained therein on
28 file at the Board's offices regarding the allegations contained in Accusation No. 2013-505 , finds
that the charges and allegations in Accusation No. 2013-505 , are separately and severally, found
to be true and correct by clear and convincing evidence.

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9. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$2,652.50 as of January 9, 2013.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Michael Roy Williamson has subjected his Registered Nurse License No. 695569 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case.:

a. On or about March 19, 2012, Respondent tested positive for use of methamphetamine, a Schedule II controlled substance as designated by Health and Safety Code, and unprofessional conduct under Business and Profession Code 2762, subdivision (b).

b. On or about October 11, 2012, Respondent used methamphetamine, a Schedule II controlled substance as designated by Health and Safety Code. Respondent was arrested by the San Diego Police Department for use of and being under the influence of methamphetamine. Respondent admitted to the arresting officer that he had smoked methamphetamine earlier in the day.

c. On or about August 19, 2011, Respondent used methamphetamine, a Schedule II controlled substance as designated by Health and Safety Code. Respondent was arrested by Riverside County Sheriffs Department for driving under the influence of a controlled substance. Respondent admitted to the arresting officer of that he had used methamphetamine earlier in the day.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 695569, heretofore issued to Respondent Michael Roy Williamson, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on MAY 2, 2013.

It is so ORDERED APRIL 2, 2013.


FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

70671179.DOC
SD2012703813

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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2 LINDA K. SCHNEIDER
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Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. *2013-525*

12 **MICHAEL ROY WILLIAMSON**
13 **11323 Brockway St.**
14 **El Cajon, CA 92021**

A C C U S A T I O N

15 **Registered Nurse License No. 695569**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about January 19, 2007, the Board of Registered Nursing issued Registered
24 Nurse License Number 695569 to Michael Roy Williamson (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on January 31, 2013, unless renewed.
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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

STATUTORY PROVISION

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

...

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

1 8. Section 2762 of the Code states:

2 In addition to other acts constituting unprofessional conduct within the
3 meaning of this chapter [the Nursing Practice Act], it is unprofessional
conduct for a person licensed under this chapter to do any of the following:

4 (a) Obtain or possess in violation of law, or prescribe, or except as
5 directed by a licensed physician and surgeon, dentist, or podiatrist administer
6 to himself or herself, or furnish or administer to another, any controlled
substance as defined in Division 10 (commencing with Section 11000) of the
Health and Safety Code or any dangerous drug or dangerous device as
defined in Section 4022.

7
8 (b) Use any controlled substance as defined in Division 10
(commencing with Section 11000) of the Health and Safety Code, or any
9 dangerous drug or dangerous device as defined in Section 4022, or alcoholic
10 beverages, to an extent or in a manner dangerous or injurious to himself or
herself, any other person, or the public or to the extent that such use impairs
his or her ability to conduct with safety to the public the practice authorized
by his or her license.

11
12 (c) Be convicted of a criminal offense involving the prescription,
consumption, or self-administration of any of the substances described in
13 subdivisions (a) and (b) of this section, or the possession of, or falsification
of a record pertaining to, the substances described in subdivision (a) of this
14 section, in which event the record of the conviction is conclusive evidence
thereof.

15 (d) Be committed or confined by a court of competent jurisdiction for
16 intemperate use of or addiction to the use of any of the substances described
in subdivisions (a) and (b) of this section, in which event the court order of
17 commitment or confinement is prima facie evidence of such commitment or
confinement.

18 ...

19
20 9. Section 2770.11 of the Code states:

21 (a) Each registered nurse who requests participation in a diversion
program shall agree to cooperate with the rehabilitation program designed by
22 the committee and approved by the program manager. Any failure to comply
with the provisions of a rehabilitation program may result in termination of
23 the registered nurse's participation in a program. The name and license
number of a registered nurse who is terminated for any reason, other than
24 successful completion, shall be reported to the board's enforcement program.

25 (b) If the program manager determines that a registered nurse, who is
denied admission into the program or terminated from the program, presents
26 a threat to the public or his or her own health and safety, the program
manager shall report the name and license number, along with a copy of all
27 diversion records for that registered nurse, to the board's enforcement
program. The board may use any of the records it receives under this
28 subdivision in any disciplinary proceeding.

10. Health and Safety Code section 11173, subdivision (a), states:

(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

12. California Code of Regulations, title 16, section 1445 states in pertinent part:

...

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

1 13. Section 4022 of the Code states, in pertinent part:

2 'Dangerous drug' or 'dangerous device' means any drug or device
3 unsafe for self-use in humans or animals, and includes the following:

4 (a) Any drug that bears the legend: 'Caution: federal law prohibits
5 dispensing without a prescription,' 'Rx only,' or words of similar import.

6 ...

7 (c) Any other drug or device that by federal or state law can be
8 lawfully dispensed only on prescription or furnished pursuant to Section
9 4006.

10 **CONTROLLED SUBSTANCE/DANGEROUS DRUG**

11 14. Methamphetamine is a Schedule II controlled substance as designated by Health and
12 Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Business and Professions
13 Code section 4022.

14 **COSTS**

15 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
16 administrative law judge to direct a licensee found to have committed a violation or violations of
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
18 enforcement of the case.

19 **FACTUAL BACKGROUND**

20 16. On or about August 19, 2011, Respondent was arrested by the Riverside County
21 Sheriffs Department for driving under the influence of a controlled substance. Respondent
22 admitted to the arresting officer that he had used methamphetamine earlier in the day and should
23 not be driving.

24 17. Respondent requested entrance into the Board's MAXIMUS Diversion Program on or
25 about January 31, 2012. During his intake interview, Respondent stated that in October of 2011,
26 he was arrested for driving under the influence of methamphetamine and that at the time of his
27 arrest a methamphetamine smoking pipe was found in his car. Respondent admitted that he has
28 had a problem with methamphetamine use since 2008.

1 18. By requesting enrollment in MAXIMUS, Respondent agreed to abstain from mind-
2 altering substances not prescribed by a physician, to stop working in any position that required a
3 nursing license, to enter a chemical dependency program, to attend 12-step meetings daily, to
4 attend a weekly support group, to submit to random biological fluid testing and call or log-in
5 daily to know when he was required to drug test.

6 19. On February 10, 11, 12 and 13, 2012, Respondent did not check in with his random
7 drug testing program as he was required to do.

8 20. On February 16, 2012, Respondent was offered a free bed at a 30-day in patient
9 treatment program.

10 21. On March 15, 2012, Respondent did not check in to his random drug testing program.

11 22. On March 19, 2012, Respondent missed a required nurse support group meeting.

12 23. On March 19, 2012, Respondent had a positive drug test form Amphetamine 1256
13 ng/ml and Chiral MAMP 97% D-isomer Methamphetamine 3041 ng/ml.

14 24. At a Diversion Evaluation Committee meeting on May 3, 2012 Respondent admitted
15 to relapsing on methamphetamine.

16 25. On or about May 3, 2012, Respondent's request to join the Diversion program was
17 denied and Respondent was deemed a public safety risk do to his inability to stay sober from
18 methamphetamine.

19 26. On or about October 11, 2012, Respondent was arrested by the San Diego Police
20 Department for use of and being under the influence of methamphetamine. Respondent admitted
21 to the arresting officer that he had smoked methamphetamine earlier in the day.

22 27. The arresting officer conducted a search of Respondent's criminal record and found
23 that on July 7, 2012, warrant #46201 was issued for Respondent's arrest for failure to appear in
24 municipal court.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Use of a Controlled Substance)**

3 28. Respondent has subjected his registered nurse license to disciplinary action under
4 section 2762, subdivision (b) of the Code, for unprofessional conduct, in that on or about
5 March 19, 2012, Respondent used methamphetamine ingested methamphetamine, a Schedule II
6 controlled substance as designated by Health and Safety Code. The circumstances are as follows
7 and in paragraphs 16-27 above, which are incorporated herein by reference:

- 8 a. On April 19, 2012 Respondent tested positive for methamphetamine use.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct - Use of a Controlled Substance)**

11 29. Respondent has subjected his registered nurse license to disciplinary action under
12 section 2762, subdivision (b) of the Code, for unprofessional conduct, in that on or about
13 October 11, 2012, Respondent used methamphetamine, a Schedule II controlled substance as
14 designated by Health and Safety Code. The circumstances are as follows and in paragraphs 16-27
15 above, which are incorporated herein by reference:

- 16 a. On or about October 11, 2012, Respondent was arrested by the San Diego
17 Police Department for use of and being under the influence of methamphetamine. Respondent
18 admitted to the arresting officer that he had smoked methamphetamine earlier in the day.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct - Use of a Controlled Substance)**

21 30. Respondent has subjected his registered nurse license to disciplinary action
22 under section 2762, subdivision (b) of the Code, for unprofessional conduct, in that on or about
23 August 19, 2011, Respondent used methamphetamine, a Schedule II controlled substance as
24 designated by Health and Safety Code. The circumstances are as follows and in paragraphs 16-27
25 above, which are incorporated herein by reference:

- 26 a. On or about August 19, 2011, Respondent was arrested by Riverside County Sheriffs
27 Department for driving under the influence of a controlled substance. Respondent admitted to the
28 arresting officer of that he had used methamphetamine earlier in the day.

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31. Respondent is subject to disciplinary action under Code sections 2761(d) and 2770.11(a), in that he failed to comply with the terms of the Board's MAXIMUS Diversion Program as set forth in paragraphs 16-27, above, which are incorporated herein by reference.

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 695569, issued to Michael Roy Williamson;
2. Ordering Michael Roy Williamson to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: December 20, 2012

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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